

SENATE BILL 2707

By Norris

AN ACT to amend Tennessee Code Annotated, Title 47,
Chapter 18, relative to identity theft deterrence.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-2102, is amended by deleting the word "and" at the end of subdivision (8); by deleting the period at the end of subdivision (9) and substituting instead a semi-colon and the word "and"; and by inserting the following language as new subdivisions to be designated as follows:

(10) "Consumer" means an individual about whom any consumer reporting agency maintains a consumer report;

(11) "Consumer report" has the meaning ascribed to that term by Tennessee Code Annotated, Section 47-18-1002(3); and

(12) "Consumer reporting agency" has the meaning ascribed to that term by Tennessee Code Annotated, Section 47-18-1002(4).

SECTION 2. Tennessee Code Annotated, Title 47, Chapter 18, Part 21, is amended by inserting the following as a new, appropriately designated section thereto:

(a) A consumer may place a security freeze on his or her consumer report by making a request in writing by certified mail to a consumer reporting agency. A security freeze shall prohibit the consumer reporting agency from releasing the requesting party's consumer report or any information from it without the express authorization of the consumer. Nothing in this section shall prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to a particular consumer report.

(b) A consumer reporting agency shall place a security freeze on a consumer report no later than five (5) business days after receiving the written request from the consumer.

(c) The consumer reporting agency shall send a written confirmation of the security freeze to the consumer within ten (10) business days of placing the security freeze on the consumer report, and shall provide the consumer with a unique personal identification number or password, other than the consumer's federal social security number, to be used by the consumer when providing authorization for the release of the consumer report for a specific party, parties, or period of time or for permanently removing the security freeze.

(d) If the consumer wishes to allow the consumer report to be accessed for a specific party, parties, or period of time while a freeze is in place, the consumer shall contact the consumer reporting agency, request that the freeze be temporarily lifted, and provide the following:

(1) Proper identification;

(2) The unique personal identification number or password provided by the consumer reporting agency to the consumer pursuant to this section; and

(3) The information requested by the consumer reporting agency about the third party, parties, or time period for which the consumer report is to be available.

(e) A consumer reporting agency may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report pursuant to this section in an expedited manner.

(f) A consumer reporting agency shall comply with a request to temporarily lift a freeze previously placed on a consumer report no later than three (3) business days after receiving the request.

(g) If a third party requests access to a consumer report on which a security freeze is in effect and the consumer does not allow the third party access to the consumer report, the third party may treat any applicable credit application made by the consumer as incomplete.

(h) If a consumer requests a security freeze pursuant to this section, the consumer reporting agency shall disclose to the consumer the process of placing and temporarily lifting a security freeze and the process for allowing access to information from the consumer report for a specific party, parties or period of time while the security freeze is in place.

(i) Except as provided in subsections (d), (e), and (f) herein, a security freeze shall remain in place until the consumer requests that the security freeze be removed permanently. A consumer reporting agency shall permanently remove a security freeze no later than three (3) business days from the receipt of a request for a permanent removal of the security freeze along with both of the following:

(1) Proper identification; and

(2) The unique personal identification number or password provided by the consumer reporting agency to the consumer pursuant to this section.

(j) If a security freeze is in place, a consumer reporting agency shall not change a consumer's name, date of birth, federal Social Security number, or address on a consumer report without providing at least thirty (30) days prior written notice to the consumer at the consumer's last known address. Written notice to the consumer is not required in order to make technical corrections to a consumer's information, including

name and street abbreviations, complete spellings, or transposition of numbers or letters.

(k) A consumer reporting agency shall not charge a fee for a consumer's first request to place a security freeze on a consumer report or for a consumer's request to permanently remove a security freeze. A consumer reporting agency may charge a consumer a reasonable fee not to exceed twelve dollars (\$12.00) for temporarily removing a security freeze for a specific party, parties or period of time, or for a second or subsequent request to place a security freeze on a consumer report after the consumer's previous request for a security freeze was permanently removed.

(l) The provisions of this section, including the security freeze, do not apply to the use of a consumer report by the following:

(1) A person, or that person's subsidiary, affiliate, agent or assignee, if the consumer has an account, contract, or debtor-creditor relationship with that person, for the purposes of reviewing the account, collecting the financial obligation of the consumer, or extending additional credit to the consumer. For purposes of this subdivision, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

(2) A subsidiary, affiliate, agent or assignee of a party or parties for whom a security freeze has been temporarily lifted pursuant to this section for the purpose of facilitating the extension of credit or other permissible use;

(3) Any person, including, but not limited to, a law enforcement agency, collections officer or private collection agency, acting pursuant to a court order, warrant or subpoena authorizing the use of the consumer report;

(4) Any department or division of the state that is acting to investigate a child support case, Medicaid or TennCare fraud, delinquent taxes or assessments, unpaid court orders, or to fulfill any of their statutory or other duties;

(5) A consumer's use of information for the purposes of prescreening as provided by the federal Fair Credit Reporting Act;

(6) Any person for the purpose of providing a credit file monitoring subscription service to which the consumer has subscribed;

(7) A consumer reporting agency for the sole purpose of providing a consumer with a copy of the consumer report upon the consumer's request;

(8) Any person or entity for the purpose of setting or adjusting a rate, adjusting a claim, or underwriting for insurance purposes;

(9) A pension plan acting to determine the consumer's eligibility for plan benefits or payments authorized by law or to investigate fraud;

(10) Any law enforcement agency or its agent acting to investigate a crime, conduct a criminal background check, conduct a pre-sentence investigation in a criminal matter or use the information for supervision of a paroled offender; or

(11) A licensed hospital with which the consumer has or had a contract or a debtor-creditor relationship for the purpose of reviewing the account or collecting the financial obligation owing for the contract, account, or debt.

SECTION 3. Tennessee Code Annotated, Title 47, Chapter 18, Part 21, is amended by inserting the following as a new section thereto:

At any time that a consumer is required to receive a summary of rights required by the federal Fair Credit Reporting Act, the consumer shall also be provided with a

summary of rights afforded to consumers pursuant to this part. That summary of rights shall be a standard form document of no more than one (1) page developed by the attorney general and made available to consumer reporting agencies and to the public no later than December 1, 2006.

SECTION 4. This act shall take effect January 1, 2007, the public welfare requiring it.